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*Attorneys for Plaintiff, The Bank of New York Mellon Trust Company, N.A. f/k/a The Bank of New York Trust Company, N.A. as successor-in-interest to JPMorgan Chase Bank N.A. f/k/a JPMorgan Chase Bank, as Trustee for MASTR Adjustable Rate Mortgages Trust 2004-9, Mortgage Pass-Through Certificates, Series 2004-9*

**UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA**

THE BANK OF NEW YORK MELLON  
TRUST COMPANY, N.A. F/K/A THE BANK  
OF NEW YORK TRUST COMPANY, N.A.  
AS SUCCESSOR-IN-INTEREST TO  
JPMORGAN CHASE BANK N.A. F/K/A  
JPMORGAN CHASE BANK, AS TRUSTEE  
FOR MASTR ADJUSTABLE RATE  
MORTGAGES TRUST 2004-9, MORTGAGE  
PASS-THROUGH CERTIFICATES, SERIES  
2004-9.

Case No.: 2:20-cv-01394-JCM-BNW

**STIPULATION AND ORDER TO  
EXTEND DISCOVERY**

## (First Request)

**Plaintiff**

VS

FIDELITY NATIONAL TITLE GROUP,  
INC.; CHICAGO TITLE INSURANCE  
COMPANY.

#### Defendants.

Plaintiff, The Bank of New York Mellon Trust Company, N.A. f/k/a The Bank of New York Trust Company, N.A. as successor-in-interest to JPMorgan Chase Bank N.A. f/k/a JPMorgan Chase Bank, as Trustee for MASTR Adjustable Rate Mortgages Trust 2004-9, Mortgage Pass-Through Certificates, Series 2004-9 (“BONY Trustee”) and Defendants, Chicago Title Insurance Company (“Chicago Title”) and Fidelity National Title Group, Inc.

1 ("Fidelity") (collectively, the "Parties"), by and through their counsel of record, hereby submit  
2 their Stipulation to Extend Discovery Deadlines by ninety (90) days in accordance with Local  
3 Rule 26-3 and Local Rule IA 6-1. The Parties are requesting an extension to the discovery  
4 deadlines as the Parties are still in process of responding to each other's written discovery  
5 requests and additional time is needed to allow the Parties' experts to review responses prior to  
6 the initial expert disclosure deadline, which is currently set for February 26, 2021.

7 While Chicago Title sent its First Set of Interrogatories, First Set of Requests for  
8 Production and First Set of Requests for Admission to BONY Trustee on September 30, 2020,  
9 which would have triggered a response deadline of October 30, 2020, BONY Trustee has only  
10 been able to provide responses to Chicago Title's Requests for Admission to date. The Parties  
11 are currently negotiating the terms of a Stipulated Protective Order, which is necessary before  
12 BONY Trustee can respond to Chicago Title's First Set of Interrogatories and Requests for  
13 Production. Additionally, Chicago Title's deadline to respond to BONY Trustee's written  
14 discovery requests is currently March 5, 2021, which does not leave BONY Trustee's expert  
15 time to review Chicago Title's responses prior to the initial expert disclosure deadline of  
16 February 26, 2021. Based on the volume of the requests and the need for a protective order, the  
17 Parties request an additional ninety (90) days in order to complete discovery and provide the  
18 experts with sufficient opportunity to review responses.

19 Due to an inadvertent calendaring error, the twenty-one (21) day deadline to request an  
20 extension to the initial expert disclosure deadline was not calendared by BONY Trustee's  
21 counsel. Nonetheless, counsel submits that the request for an extension is supported by good  
22 cause in compliance with LR 26-3, has been brought in good faith, is the first request for an  
23 extension of time to the discovery deadlines and is not intended to cause delay.

24 **(a) A statement specifying the discovery completed:**

25 The Parties conducted the Fed. R. Civ. P. 26(f) conference on September 23, 2020.  
26 Thereafter, the Parties promptly submitted their proposed Joint Discovery Plan and Scheduling  
27 Order on October 7, 2020 [ECF No. 21]. On October 9, 2020, the Court entered the Discovery  
28 Plan and Scheduling Order [ECF No. 22] with the following deadlines:

- 1     • Initial disclosures: October 30, 2020;
- 2     • Amend pleadings/add parties: January 27, 2021;
- 3     • Initial experts: February 26, 2021;
- 4     • Rebuttal experts: March 29, 2021;
- 5     • Discovery cutoff: April 27, 2021;
- 6     • Dispositive motions: May 27, 2021; and
- 7     • Joint proposed pretrial order: June 28, 2021, or 30 days after resolution of  
8       dispositive motions.

9       Thereafter, the Parties completed the following discovery:

- 10     • Chicago Title and Fidelity's Initial Disclosure of Witnesses and Documents,  
11       November 6, 2020;
- 12     • BONY Trustee's Initial Disclosure of Witnesses and Documents, November 6,  
13       2020;
- 14     • Chicago Title's First Set of Interrogatories to BONY Trustee, September 30,  
15       2020;
- 16     • Chicago Title's First Set of Requests for Admission to BONY Trustee,  
17       September 30, 2020;
- 18     • Chicago Title's First Set of Requests for Production to BONY Trustee,  
19       September 30, 2020;
- 20     • BONY Trustee's First Set of Interrogatories to Chicago Title, November 10,  
21       2020;
- 22     • BONY Trustee's First Set of Requests for Admission to Chicago Title,  
23       November 10, 2020;
- 24     • BONY Trustee's First Set of Requests for Production to Chicago Title,  
25       November 10, 2020;
- 26     • BONY Trustee's First Set of Interrogatories to Fidelity, November 10, 2020;
- 27     • BONY Trustee's First Set of Requests for Admission to Fidelity, November 10,  
28       2020;

- BONY Trustee’s First Set of Requests for Production to Fidelity, November 10, 2020;
  - BONY Trustee’s Responses to Chicago Title’s First Set of Requests for Admission, February 5, 2021;

**(b) A specific description of the discovery that remains to be completed:**

The Parties need to conduct the following discovery:

- Agreement of the terms of a Stipulated Protective Order and the Court's entry of the same;
  - Fidelity's Responses to BONY Trustee's Written Discovery Requests, currently due March 5, 2021;
  - Chicago Title's Responses to BONY Trustee's Written Discovery Requests, currently due March 5, 2021;
  - BONY Trustee's Responses to Chicago Title's First Set of Requests for Production and First set of Interrogatories, to be served upon the Court's entry of a Protective Order;
  - The Parties' Initial Expert Disclosure;
  - The Parties' Rebuttal Expert Disclosure;
  - Deposition of Fed. R. Civ. P. 30(b)(6) Witness for Chicago Title;
  - Deposition of Fed. R. Civ. P. 30(b)(6) Witness for Fidelity;
  - Deposition of Fed. R. Civ. P. 30(b)(6) Witness for BONY Trustee;
  - Deposition of various fact witnesses and experts; and
  - Such other discovery that may be deemed necessary or appropriate.

(c) The reasons why the deadline was not satisfied or the remaining discovery was not completed within the time limits set by the discovery plan:

25 Due to the need for a protective order and the volume of discovery propounded, the  
26 Parties need additional time to respond to the pending requests prior to the initial expert  
27 disclosure deadline of February 26, 2021. Accordingly, the Parties request a ninety (90) day  
28 extension to the discovery deadlines so that discovery responses can be provided and the

1 Parties' experts have sufficient time to review the written discovery responses, documentation,  
2 and issue opinions prior to the initial expert disclosure deadline.

3 In accordance with Local Rule 26-3, good cause exists for an extension to the discovery  
4 deadlines as the Parties' experts are unable to prepare an expert report prior to the February 26,  
5 2021 deadline given that written responses from the Parties have not yet been completed, nor  
6 has a protective order been entered.

7 **(d) A proposed schedule for completing all remaining discovery.**

8 The Parties request that current Discovery Plan and Scheduling Order [ECF No. 22] be  
9 amended as follows:

- 10 1. Last Day to Disclose Initial Expert Report: currently February 26, 2021, **desired**  
11 **May 27, 2021;**
- 12 2. Last Day to Disclose Rebuttal Experts: currently March 29, 2021, **desired June 27,**  
13 **2021;**
- 14 3. Last Day to Complete Discovery: currently April 27, 2021; **desired July 26, 2021;**
- 15 4. Last Day to File Dispositive Motions: currently May 27, 2021, **desired August 25,**  
16 **2021;**

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5. Last Day to File Joint Pre-Trial Order: currently, June 28, 2021, **desired September 27, 2021**. In the event dispositive motions are filed, the date for filing the joint pretrial order shall be suspended until thirty (30) days after a decision of the dispositive motions. The disclosures required by FRCP 26(a)(3), and any objections thereto, shall be included in the pretrial order.

## **IT IS SO STIPULATED.**

DATED this 25<sup>th</sup> day of February, 2021.

DATED this 25<sup>th</sup> day of February, 2021.

## **WRIGHT, FINLAY & ZAK, LLP**

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## IT IS SO ORDERED.

DATED March 3 , 2021

Ben Wexler  
UNITED STATES MAGISTRATE JUDGE